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IN THE
SUPREME COURT OF THE UNITED STATES

DONALD P. ROPER,
Petitioner,

v.

CHRISTOPHER SIMMONS,
Respondent.

On Writ of Certiorari to the
Supreme Court of Missouri

BRIEF *AMICI CURIAE* OF THE UNITED STATES CONFERENCE OF CATHOLIC BISHOPS AND OTHER RELIGIOUS ORGANIZATIONS IN SUPPORT OF RESPONDENT

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INTEREST OF *AMICI*

Representatives of widely diverse religious communities in the United States – reflecting Christian, Jewish, Muslim, and Buddhist traditions – unite here as amici curiae on behalf of the Respondent, Christopher Simmons.[1] These amici have differing views about the death penalty in general. Some object to it in principle, opposing it at all times and in all circumstances; others do not. Notwithstanding highly nuanced differences in theology and moral outlook, all of these amici share the conviction that the execution of persons for crimes they committed as juveniles cannot be morally justified.[2] In our view, such executions violate the standards of decency of American society and the Eighth Amendment guarantee against cruel and unusual punishment.

Individual statements of interest are provided in the Appendix to this Brief.

SUMMARY OF ARGUMENT

If there once was any doubt about the relevance of the views of the religious community in deciding the constitutionality of certain punishments, it was removed by this Court's decision in *Atkins v. Virginia*, 536 U.S. 304 (2002). There a majority of this Court made clear that the views of religious organizations are

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[1] Pursuant to this Court's Rule 37.6, counsel for a party did not author this Brief in whole or in part. No person or entity, other than the United States Conference of Catholic Bishops, made a monetary contribution to the preparation or submission of this Brief. The parties have consented to the filing of this Brief. Letters of consent are filed herewith.

[2] For convenience, the amici will use "juvenile death penalty," "juvenile executions," and "juvenile offenders" as shorthand for such cases and persons.

"[a]dditional evidence" (536 U.S., at 316 n.21) of a broad social and professional consensus against the imposition of the death penalty for a particular class of persons.

This case bears many similarities to *Atkins* because it involves a class of offenders who, because of their age, lack the degree of culpability that would place them in the category this Court has described as those "most deserving" (*id.* at 319) to be put to death. Juveniles lack the psychological maturity and development of adults. Anecdotal evidence suggests that when juveniles do engage in serious crimes, it is almost always attended by mitigating circumstances, such as early and continual exposure to violence and family and social disruption. Society holds great hope for the reform of wayward youth.

As put by one of the amici (*see* discussion *infra* at 26), children are not miniature adults, and no other area of law treats them as such. Indeed, allowing the death penalty for juveniles permits a radical inconsistency in the law to persist because, in virtually every area of law, a person's youthfulness is taken into account unless the state is contemplating the ultimate question of whether to take his or her life. This anomaly, in which a blind eye is turned to the immaturity of youth when that immaturity is most relevant and its consequences most severe, cannot be reconciled with our nation's evolving moral sense about what is right and just in contemporary America.

The amici may have many different views about crime and punishment, but they converge in their answer to the question of whether contemporary standards of decency can allow the execution of juvenile offenders. All their traditions, different though they be, point to the same answer.

The answer is, and must be, no.

ARGUMENT

I. WHY THE VIEWS OF THE RELIGIOUS COMMUNITY ARE RELEVANT

The Eighth Amendment guarantee against cruel and unusual punishment "is not fastened to the obsolete," *Weems v. United States*, 217 U.S. 349, 378 (1910), or to be judged by "the standards that prevailed in 1685 when Lord Jeffreys presided over the 'Bloddy Assizes' or when the Bill of Rights was adopted," *Atkins v. Virginia*, 536 U.S. 304, 311 (2002), but rather draws its meaning "from the evolving standards of decency that mark the progress of a maturing society." *Trop v. Dulles*, 356 U.S. 86, 101 (1958) (plurality).

The process of deciding what is cruel and unusual is therefore not a mechanical one, but contemplates that the Court's "own judgment" will be brought to bear on the question. *Atkins*, 536 U.S., at 312. In exercising its judgment, this Court has consulted many sources, including the views of the religious community, in deciding whether the death penalty, as applied to a particular class of persons, is contrary to evolving standards of decency. In *Atkins*, 536 U.S., at 316 n.21, this Court cited the brief of amicus United States Catholic Conference[3] and other religious organizations as "additional evidence" of a broad "social and professional consensus" against the execution of persons with mental retardation. In *Stanford v. Kentucky*, 492 U.S. 361 (1989), four Justices considered the view of a similar coalition of religious groups in considering the constitutionality of the juvenile death penalty, the precise question presented here. *Id.* at 388 n.4 (Brennan, J., joined by Marshall, Blackmun and Stevens, JJ., dissenting).

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[3] Subsequently renamed the United States Conference of Catholic Bishops, an amicus herein.

It is not surprising that the Court would consider the views of the religious community in deciding whether juvenile executions violate evolving standards of decency. Morality and decency are subjects on which religious bodies legitimately can claim a particular experience and competence. Important revivals of conscience in this country have had religious leaders and organizations at their center. Whether the call was for civil rights or other societal and legal reform, religious leaders have been at the forefront of these movements. *Cf. Bowen v. Kendrick*, 487 U.S. 589, 606-07 (1988) (noting the role of religious organizations in addressing secular problems in society).

The death penalty, in particular, involves quintessentially moral questions. Indeed, this Court has recognized that imposition of the death penalty in every case requires a moral judgment. *Penry v. Lynaugh*, 492 U.S. 302, 319 (1989) (noting that capital punishment must reflect a "reasoned *moral* response to the defendant's background, character, and crime") (original emphasis). Moral questions are also implicated in this Court's proportionality review and its inquiry into whether punishment serves the purposes of legitimate retribution. *See* note 4, *infra*.

As religious bodies and religiously-affiliated organizations, these amici are uniquely qualified to comment on moral issues such as the death penalty. Few, if any, institutions can claim a greater tradition of working with and studying the conscience of the human person and related questions of guilt, blame and punishment than the religious community. The amici have developed a rich tradition of reflection and scholarship that has informed and been informed by the experience of countless millions of people over centuries. Failure to consider those views would diminish the authority this Court would bring to the resolution of these essentially moral questions.

That each case requires a moral response, however, has not prevented this Court from making categorical judgments about what is cruel and unusual. Certain kinds of crimes have been held categorically not to merit certain kinds of punishment, including the death penalty.[4] Similarly, and especially germaine to this case, the Court has held that certain kinds of offenders categorically do not merit the death penalty. *Atkins v. Virginia*, 536 U.S. 304 (2002) (Eighth Amendment bars execution of persons with mental retardation); *Thompson v. Oklahoma*, 487 U.S. 815 (1988) (Eighth Amendment bars execution of persons under the age of 16 at the time of the offense); *Ford v. Wainwright*, 477 U.S. 399 (1986) (Eighth Amendment bars execution of insane persons). These decisions – both with respect to the type of crime and the type of offender – are a natural outgrowth of the Court's teaching that the death penalty is reserved for the worst offenders and the worst offenses. *Atkins*, 536 U.S., at 319-20, and cases cited therein.

Despite their differing views about crime and punishment, all the amici agree that the execution of juvenile offenders is inconsistent with evolving standards of decency. Juveniles on the whole are less blameworthy than adults because they lack adult maturity. On this point, comparison with *Atkins* is apt.

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[4] *Solem v. Helm*, 463 U.S. 277, 303 (1983) (concluding that life sentence without possibility of parole is disproportionate and hence unconstitutional punishment for the writing of a "no account" check); *Enmund v. Florida*, 458 U.S. 782, 797-98 (1982) (concluding that death penalty is disproportionate and hence unconstitutional penalty for felon who neither kills, attempts to kill, nor intends to kill, because, among other things, the resulting harm and culpability are less than that associated with murder); *Coker v. Georgia*, 433 U.S. 584, 598 (1977) (concluding that death penalty is disproportionate and hence unconstitutional penalty for rape because, among other things, it involves less moral depravity and injury to the person and the public than murder); *Weems v. United States*, 217 U.S. 349, 380-81 (1910) (concluding that 15-year sentence at hard labor for falsification of official document is disproportionate when compared with penalties imposed for, and harm caused by, other crimes).

"Recent empirical and theoretical scholarship on the developmental capacities of adolescents generally, and adolescent offenders in particular, suggests that adolescence itself is characterized by a constellation of development deficits that closely align with the developmental incapacities of the mentally retarded." Jeffrey Fagan, "*Atkins*, Adolescence, and the Maturity Heuristic: Rationales for a Categorical Exemption for Juveniles From Capital Punishment," 33 N.M. L. Rev. 207, 208 (2003). Thus, far from ensuring that the "most deserving of execution are put to death," *Atkins*, 536 U.S., at 319, allowing the execution of juvenile offenders, like persons with mental retardation, is a virtual guarantee that the *least* deserving will be put to death. Adolescent crimes are almost always associated with mitigating factors such as early exposure to violence and a highly disruptive family and social environment. Because of their age, society generally holds out greater prospects for the reform of youthful offenders. For these reasons, and for all the reasons set out in the individual statements of the amici *infra*, the execution of adolescents is contrary to contemporary moral sensibilities.

II. AMICI'S VIEWS CONCERNING THE EXECUTION OF JUVENILE OFFENDERS

As noted above, these amici's views about the death penalty *per se* vary, but they are united in their conviction that the execution of juvenile offenders violates contemporary standards of decency. Our individual views follow.

1. The Alliance of Baptists. The Alliance of Baptists "believe[s] the use of the death penalty cannot bring life or healing to victims and their families, or to offenders and their families." Statement on the Death Penalty, Alliance of Baptists Annual Meeting (April 28, 2000). We oppose its imposition because the death penalty "is used most often against the poorest

and most vulnerable members of our society." *Id.* Within this latter category, none is more vulnerable than the youthful offender whose ethical foundation has not been fully developed and whose rehabilitation is thus more likely to be realized. Of principal theological import in our opposition to the death penalty is the belief that "God's power to forgive is greater than humanity's power to do evil." *Id.*

2. The American Association of Jewish Lawyers and Jurists ("AAJLJ"). The AAJLJ opposes the execution of juvenile offenders as incompatible with Jewish law and morality and American constitutional values and standards. Under Jewish law and tradition, the imposition of the death penalty is severely proscribed by procedural rules that limit its use almost to the point of nullity. This virtual prohibition on the death penalty is expressed in a Rabbinic exchange recounted in the Talmud, where the Rabbis concluded that a Sanhedrin (Jewish court) that imposes a death penalty once every seventy-seven years is a "harsh" court. BT (Babylonian Talmud) Mishnah Makkot 7a.

Jewish law also recognizes the status of minors as a class not subject to the most dire punishment. Minors are considered inherently deficient in judgment until they reach majority. BT Hagiga 2b, BT Yevamot 99b, BT Gittn 23a. Therefore, Jewish law does not hold them responsible, but shows them mercy because of their diminished capacity. A general principle of Jewish law is that minors are not punished, even in cases that call for capital punishment. BT Tractate Sanhedrin 52b, 54a, 54b. The Talmud states that even if a minor was deliberate in his transgression, God has mercy on him. BT Tractate Sanhedrin 55b. These principles clearly prohibit the execution of a juvenile offender.

Deterrence as a justification for executing a juvenile offender would also be rejected under Jewish law. A Talmudic

commentary states: "For we do not find that God finds (the minor) guilty, and even in a situation where we (generally) need to punish (the sinner) to exhort the community – as in the case of a murder – we do not encounter cases where we punish a minor." Commentary of Rabbi Nissim of Gerondi [14th c. Spain] on BT Tractate Sanhedrin 68b.

3. American Friends Service Committee ("AFSC"). AFSC is opposed to the execution of any person, regardless of age. Quakers, on whose behalf AFSC undertakes its social justice work, believe firmly that every person has the potential for good and that those who have committed crimes can come to regret them and be rehabilitated. Our opposition to the execution of youth is also based on our belief in their great potential for good. From its earliest days, AFSC has supported the moral, spiritual, and physical development of young people. Our experience teaches that youth, properly nurtured and supported, are capable of the highest achievements and profound change. In our view, society should devote its resources to helping youth reach their potential, including the potential for rehabilitation.

4. The American Jewish Committee. While Jewish Biblical tradition mandates the imposition of capital punishment under certain, rare circumstances, Rabbinical interpretation of that tradition has required such procedural assurances with respect to the application of the death penalty that it, in effect, virtually prohibits it. For these reasons, the American Jewish Committee opposes capital punishment in general, as cruel, unjust and incompatible with the dignity and self-respect of man, and in particular opposes the execution of persons for crimes they committed as juveniles.

5. The American Jewish Congress. The American Jewish Congress is opposed to the juvenile death penalty because it believes that juveniles are not capable of mature judgment, and

hence do not have the degree of moral culpability which is a prerequisite for the use of the death penalty.

6. The Bruderhof Communities Church International ("The Bruderhof"). The Bruderhof is opposed to the execution of any person, regardless of age. Bruderhof members hold to Biblical teachings that evil in the world will never be conquered with more violence, but only by greater love. We are firmly convinced of the redemptive power of forgiveness and reconciliation, particularly as regards youthful offenders. We affirm the Biblical teaching that "when a wicked man turns away from the wickedness he has committed and does what is lawful and right, he shall save his life. Because he considered and turned away from all the transgressions which he has committed, he shall surely live, he shall not die...." Ezekiel 18:27-32. The execution of juvenile offenders obviously and irrevocably denies youthful offenders the opportunity for rehabilitation, and violates our belief in the sanctity and dignity of human life. Such executions should be rejected.

7. Buddhist Peace Fellowship. We oppose all executions, in keeping with the First Precept of Buddhism, which says not to harm any living thing. Furthermore, we see that executing juvenile offenders is even more contrary to Buddhist principles of compassion and the ever present possibility of transformation than executing adults. The absence of any mention of juvenile executions in the Pali canon (a primary source for the Buddha's teachings) underscores how inconceivable that notion was to the earliest practitioners of Buddhism. Modern society likewise understands the vulnerability of youth to the influence of others, and their need for guidance from parents and other adults. Drivers' licenses, voting privileges, military service responsibilities, and other adult prerogatives are uniformly withheld from young people because it is commonly held that they are not ready for these responsibilities. When youth commit terrible

crimes, we see that as a call for extra care, restraint, and guidance. Buddhism recognizes the possibility of transformation and rehabilitation. People can change if given the right conditions for doing so.[5] That principle is even more pertinent to young people, who are still in their formative stages.

8. Church Women United ("CWU"). CWU has opposed the death penalty since 1979. "[T]he life of the victim," CWU's Social Policy Book states, "is further devalued by taking the life of another." Its 1981 Statement on the Abolition of Capital Punishment expresses CWU's conviction "that the nation's leaders should give attention to the improvement of the total criminal justice system and to the elimination of social conditions which breed and cause disorder rather than fostering a false confidence in the effectiveness of the death penalty."

This is especially true when considering the treatment of youth in the criminal justice system. The ability of youth to discern right from wrong is immature and undeveloped. Furthermore, there is a great need to address the underlying social conditions which foster criminal activity, especially in young people.

As a movement of Christian women who take their faith very seriously, CWU's opposition to the death penalty is coupled with deep concern for the physical, emotional, and spiritual needs of children and youth. CWU opposes the execution of juvenile offenders as a violation of the laws of God and humankind. Christ expressed a special concern for children and

[5] Traditionally in Asia troubled young people were sent to monasteries to live with monks and nuns, so that they could be raised in more wholesome and stable conditions. While this is not an option in modern, secular society, it does suggest that changes in social conditions can cause a change in the person. It is noteworthy that many troubled youth have grown up on the street. Many who commit terrible crimes have themselves been abused.

youth. So should the criminal justice system.

9. Community of Christ. Based on the action of its highest legislative body, the Community of Christ opposes the death penalty and prefers to seek ways to achieve healing and restorative justice. Similarly, the church's Standing High Council, a council of senior ministers that advises church leaders on matters of ethics and morality, has also stated its opposition to capital punishment. Because of its broad opposition to the death penalty, the Community of Christ opposes the death penalty for juvenile offenders.

10. Engaged Zen Foundation. The Engaged Zen Foundation believes that the execution of juvenile offenders disregards the immaturity of young people, the incomplete development of their impulse control, insight, wisdom and social skills, and their potential for growth. The imposition of the death penalty for crimes committed by juvenile offenders is profoundly objectionable because of its finality and its total disregard of the potential for positive change inherent in the natural maturing process.

11. The Evangelical Lutheran Church in America ("ELCA"). ELCA acknowledges that "[t]he state is responsible under God for the protection of its citizens and the maintenance of justice and public order. God entrusts the state with the power to take human life when failure to do so constitutes a clear danger to society. However, this does not mean that governments have an unlimited right to take life. Nor does it mean that governments must punish crime by death." A Social Statement on the Death Penalty, adopted by the Churchwide Assembly of the ELCA, Aug. 28 – September 4, 1991, at 2. The imposition of the death penalty generally, and as specifically applied to juvenile offenders, is in contradiction to what the ELCA affirms from Scripture, creeds and confessions as to the value of God-given

life and the commitment to serve God's justice. *Id.*

ELCA opposes the death penalty because of its commitment to justice. *Id.* at 4. "For the Evangelical Lutheran Church in America, following Jesus leads us to a commitment to restorative justice.... [E]xecutions do not restore broken society and can actually work counter to restoration." *Id.* at 3. "Executions harm society by mirroring and reinforcing existing injustice. The death penalty distracts us from our work toward a just society. It deforms our response to violence at the individual, familial, institutional, and systemic levels. It perpetuates cycles of violence." *Id.* at 4.

The execution of juvenile offenders is morally unjustifiable and "undermines any possible moral message we may want to 'send.'" *Id.* "Despite attempts to provide the legal safeguards, the death penalty has not been and cannot be made fair. The race of the victim plays a role in who is sentenced to death and who is sentenced to life imprisonment, as do the gender, race, mental capacity, age, and affluence of the accused." *Id.* "It is not fair and fails to make society better or safer. The message conveyed by an execution, reflected in the attention it receives from the public, is one of brutality and violence." *Id.*

As a community gathered in faith, as a community dispersed in daily life, as a community of moral deliberation, and as a church body organized for mission, we know the Church is called by God to be a creative critic of the social order, and to speak on behalf of justice, peace and order. We, the ELCA, therefore, "urge the abolition of the death penalty, and support alternative and appropriate punishment for capital crime," *id.* at 6, for juvenile offenders as well as others. A commitment to God's justice demands no less. *Id.* at 2.

12. Foundation for the Preservation of the Mahayana Tradition, Inc. It is essential to Buddhist belief and practice to help oneself and others; if it is not possible to help, then the least one must do is not harm. We believe the only way to help oneself and others is by practicing non-violence, particularly through the exercise of compassion and wisdom. Of the five principal moral precepts that Buddhism enshrines, the first is to refrain from killing. We believe in the law of karma – that actions produce consequences – and for the state to execute individuals is to create a violent cause that will result in yet more violence in the future. Execution therefore will not and does not further the state's legitimate aim of protecting its citizens. Additionally, it is our belief that juveniles should be treated more leniently than adults, and that it behooves us to treat these individuals with care and compassion and to give them a second chance, just as we ourselves would wish to be treated.

13. The General Council on Finance and Administration of The United Methodist Church. The United Methodist Church has opposed the death penalty since 1956. The Church's Social Principles state that "we oppose capital punishment and urge its elimination from all criminal codes." The Book of Discipline of The United Methodist Church ¶ 165(a) (2000). Further, "[t]he death penalty ... falls unfairly and unequally upon an outcast minority." The Book of Resolutions of The United Methodist Church No. 231 (2000). The United Methodist Church is opposed to the juvenile death penalty based upon its principled objection to all death penalty statutes.

14. Greek Orthodox Archdiocese of America. The protection of human rights and the inherent worth of every person and of all human life are of paramount importance and basic principles in the moral teaching of the Greek Orthodox Church. These principles require us to oppose the death penalty for

juvenile offenders.

15. The Most Reverend Frank T. Griswold, Presiding Bishop and Primate, The Episcopal Church in the United States of America. The Episcopal Church USA has opposed the death penalty since 1953 and most recently restated that position in 2000 at its governing meeting as follows: "[Resolved,] That the 73rd General Convention of the Episcopal Church reaffirm its opposition to capital punishment and call on the dioceses and members of this church to work actively to abolish the death penalty in their states; and be it further Resolved, That this Convention join those who are calling for an imposition of an immediate moratorium on the use of capital punishment."

At the same meeting, the Convention said the "Episcopal Church endorse[s] and support[s] justice that addresses the identified needs of juvenile offenders, their families, and victims within each community of the Church." Opposition to execution of juveniles is wholly consistent with the Church's longstanding interest in reform of the nation's criminal justice system and its specific policy of opposition to the death penalty.

16. Jewish Council for Public Affairs ("JCPA"). JCPA, the coordinating body of 13 national and 122 local Jewish federations and community relations councils, opposes the imposition of the death penalty against those who were under the age of 18 at the time of their offense and generally regards the taking of human life by authority of law as barbaric and repugnant to the traditional Jewish regard for the sanctity of human life.

JCPA historically has been opposed to the death penalty as inappropriate for a modern human society, and has a particular concern because of abundant evidence that the process by which the penalty is imposed is seriously flawed. The criminal justice system, as it encounters juveniles, lacks adequate safeguards to

prevent the execution of innocent minors.

17. Clifton Kirkpatrick, as Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.). Beginning in 1959, the General Assembly of the Presbyterian Church (U.S.A.) and its predecessors declared the church theologically and ethically opposed to the use of capital punishment. "Believing that capital punishment cannot be condoned by an interpretation of the Bible based upon the revelation of God's love in Jesus Christ, and that as Christians we must seek the redemption of evil doers and not their death, and that the use of the death penalty tends to brutalize the society that condones it, the 171st General Assembly (1959) declares its opposition to capital punishment." The 1966, 1977, 1978, and 1985 General Assemblies reaffirmed this statement and called upon the church to work for abolition of the death penalty, calling capital punishment an expression of vengeance which contradicts the justice of God on the cross. The 2000 General Assembly called for an immediate moratorium on all executions in all jurisdictions that impose capital punishment. The Presbyterian Church (U.S.A.) has consistently opposed capital punishment without distinction among categories of defendants, and for that reason opposes the execution of juvenile offenders.

18. Rev. Dwight M. Lundgren, Board of National Ministries, American Baptist Churches USA. The execution of juvenile offenders is contrary to American standards of justice, fairness and decency, standards under which people are punished according to the degree of their culpability and the death penalty is reserved for the "worst of the worst" offenders. Those standards are not met in the case of one who is a juvenile at the time of the offense. Adolescence is a transitional time of life when cognitive abilities, emotions, judgment, impulse control, and identity are still developing. Recent discoveries in neuroscience reveal that the brain continues to develop into the

early twenties, with the aforementioned executive functions developing last. Indeed, immaturity is the reason we do not allow juveniles to assume the basic responsibilities and privileges of adulthood, such as military service, voting, entering into contracts, or serving on juries.

19. Mennonite Central Committee ("MCC"), U.S. Washington Office. The MCC U.S. Washington Office is guided in its anti-death penalty advocacy by a 1982 MCC statement which says in part: "We believe the Mennonite and Brethren in Christ churches must act to enhance respect for human life, and that this cannot be done through executions. We recognize the seriousness and emotion with which this issue is considered by many Americans. We also recognize the difficulty of any simple answers to the issues of violent crimes." It is also guided by statements of its member denominations, for example: "In view of our Christian responsibility to value all human life we are compelled to set forth our opposition to all capital punishment. ...The death penalty is applied ... disproportionately to some of society's most vulnerable people. We [also] acknowledge the deep grief of families of murder victims and victims of capital punishment laws; hold them in our prayers; and commit ourselves to walk with them." A Resolution: The Death Penalty (Mennonite Church USA, 2001). The MCC U.S. Washington Office works along with others in the church and society in attending to the needs of victims and offenders, which includes the belief that juveniles need every opportunity to reform and grow into adulthood.

Church teaching also states: "Led by the Spirit, and beginning in the church, we witness to all people that violence is not the will of God. We witness against all forms of violence, including war among nations, hostility among races and classes, abuse of children and women, violence between men and women, abortion, and capital punishment." Confession of Faith in a

Mennonite Perspective, Article 22 (1995). The state has a role in the welfare of a society (Romans 13:1-7). However, this does not include the duty to take human life. Since all people are created in the image of God, the taking of life by the state is always cruel and unusual punishment. We find executing juveniles to be notably cruel and unusual given the Bible's constant regard for those who are weak, neglected and vulnerable (Psalms 146:5-9; Luke 4:18-19) and Jesus' special concern for children (Matthew 19:13-15; Mark 10:13-16; Luke 18:15-16).

20. Muslim Public Affairs Council. The Quran does sanction the use of the death penalty in certain circumstances. However, this is circumscribed by a variety of factors. First, the injunction to be merciful is emphasized throughout the Quran. Even in murder cases, the Quran clearly states that it is better to forgive. A democratic polity, by forgoing the death penalty in its entirety, can choose to enshrine in the law this divine mandate to be merciful. Our reading of the Islamic texts supports such a conclusion.

Second, the Quran clearly distinguishes acts based on the intention behind them. An intention to kill is necessary for an act to qualify as murder, while accidental death (what in American criminal law would be considered manslaughter) does not. Intention requires a level of mature judgment capable of understanding the nature of an act and its consequences. A mind incapable of such a judgment, due either to immaturity or physical or mental defect, cannot properly be held accountable for such an intention. Children, by their very nature, lack the maturity and judgment necessary to form a qualifying intent to murder, so they cannot be properly executed for such a crime. Individuals who are a physical threat to the security of others may still be separated from society in some manner, even if they are children or insane. To execute children for a capital crime,

however, is a gross miscarriage of justice from the Islamic standpoint, and would constitute a grievous sin by those responsible for such an act.

21. Muslim Women Lawyers for Human Rights ("Karamah"). Karamah supports a ban on capital punishment generally because it believes that the death penalty as applied by the justice system in the United States does not provide adequate protections to the accused or a well-developed system of restorative justice. Further, it supports a ban on capital punishment against juveniles for the same reasons given by major Islamic schools of thought.

Muslim scholars developed many schools of thought that differed drastically at times on various matters, including those relating to intentional killing. The Quran specifies that in the case of intentional killing, the penalty is based on the concept of *qisas* (retributive justice), but that it would be better if the family of the victim forgave the murderer. Quran 2:178. Referring to the availability of forgiveness under Islamic law as a preferred alternative to *qisas*, the same verse concludes: "This is a concession and a mercy from your Lord." Thus in Islam, forgiveness and mercy are better than retaliation, even when the latter is justified.

In the Islamic system of justice, the state, including the courts, do not have the power to impose the death penalty. The courts can only establish the innocence or guilt of the accused. If guilty, then only the family of the victim has the right to demand the death penalty, otherwise the court must impose other forms of punishment. Islamic jurisprudence was developed, however, so that the Quranic concept of restorative justice would supplement the notion of *qisas* by permitting the death penalty to be set aside if any member of the victim's family forgave the murderer. Jurists also permitted the family of

the victim to waive the death penalty in favor of reconciliation with the murderer if the latter repents and pays monetary compensation to the family. All these options – the death penalty, compensation, and forgiveness – are available under American criminal and civil law, but American law uses a different system of checks and balances that produces harsher results. Most significantly, forgiveness in the American justice system is relegated to the state. In the Islamic system, it is kept on a human and personal level, where the family of the victim is encouraged to forgive so that God will forgive and reward the departed and his family. Since the forgiveness of any member of the immediate family binds the rest, forgiveness becomes a healing experience untainted by political considerations. In practice, many families have indeed forgiven murderers.

All Islamic schools of thought have agreed that no *qisas* is to be exacted from a minor. This position is based on the shared premise that an important prerequisite for *qisas* itself is physical and mental maturity. In other words, *qisas* for a grave action such as murder may not be exacted from a perpetrator who is unable to properly and fully comprehend the consequences of his or her actions; but other lesser forms of *ta'ziri* (disciplinary) punishment may be imposed. This rule does not cover an adult killer who was drunk at the time of the crime, because his lapse of judgment was the result of his own choices, but it does cover an adult who was insane. In the absence of the prerequisites of physical and mental maturity, a murder is treated as manslaughter.[6]

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[6] Wihbah al-Zuhayli, 7 Al-Fiqh al-Islami wa Adillatuh (Islamic Jurisprudence and its Proofs) (11 volumes) 5665 (Damascus: Dar al-Fikr al-Mu'asser, 1997); Abd al-Fattah Kabbarah, Al-Fiqh al-Muqaran ([Islamic] Comparative Jurisprudence) 164 (Beirut: Dar al-Nafa'is, 1997), 33 Al-Mawsu'ah al-Fiqhiyyah (Encyclopedia of Islamic Jurisprudence) 261 (Kuwait: Ministry of Awqaf [Religious Endowments], 1995).

Islamic jurists disagreed as to the age at which a minor reaches maturity. It ranged from fifteen to nineteen. The age of maturity, however, varies with context. For example, maturity for handling financial affairs differs from that for marriage, prayer, or criminal action. In the case of criminal law, for the Hanafi school and the majority of Malikis – two schools of thought that are heavily represented in the United States – the age has been set at eighteen and nineteen, respectively.[7] The reasoning underlying these positions is based on the juristic principle that laws must be formulated in light of the general rule, not the exception. So, while some minors may mature at age fifteen, generally this is not the case for other minors. Further, in the interest of mercy and lightening the weight of God's punishment upon humans (*ta'khfif*) mentioned in the above-referenced verse, it is better to err in favor of saving lives, rather than ending them. For God states that killing one life unjustly is like killing all of humanity. Quran 5:35.

Thus, according to these two major schools of Islamic thought, the age of maturity for a minor in matters of criminal law is either eighteen or nineteen, but no less. Further, as stated earlier, both schools of thought exempt minors from the death penalty. We concur in these positions and thus support specifically a ban on capital punishment against anyone under the age of eighteen.

22. National Council of Synagogues. The Hebrew Bible is unambiguous in calling for the execution of criminals for a wide array of offenses. However, the Rabbinic tradition that evolved over thousands of years was repelled by the notion, arguing that "it is a bad thing for everybody." Our contemporary Jewish religious and moral leaders have developed a consensus that the practice of capital punishment is unacceptable in our time.

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[7] 'Awdah, Abdul Qadir, 1 Al-Tashri' al-Jina'i al-Islami 603 (Islamic Criminal Law) (Egypt, 1968).

Our tradition teaches that vengeance and retribution neither heal pain nor comfort the bereaved. Responding to violence with violence only breeds more violence and suffering. Though we understand society's concerns with punishing the guilty by meting out death as a form of retributive justice, we as religious people are called to a higher moral ground, seeking punishments that allow for healing, reconciliation and penance. The death penalty annihilates the possibility of reaching this higher ground, all the more so in the case of juvenile executions.

23. Prison Dharma Network ("PDN"). PDN, an interfaith organization, is opposed to the execution of any person, regardless of age. Members of PDN believe firmly that every person incarcerated has the potential for rehabilitation. Our opposition to the execution of juvenile offenders is also based on our spiritual beliefs, as "non-killing" is a core tenet of all religions represented by PDN. PDN has always supported the spiritual and educational development of young people. We believe that any youth, when nurtured and supported, is capable of leading a fulfilling and productive life. We also believe our society should devote its resources to helping support youth to reach their potential, including the potential for rehabilitation.

24. The Progressive Jewish Alliance. The Progressive Jewish Alliance believes that capital punishment, in particular the execution of juvenile offenders, is antithetical to both Jewish and American values.

While Biblical law mandates capital punishment for a number of offenses, Talmudic interpretations essentially abolished the death penalty 1,800 years ago. Talmudic rules regarding capital punishment erected procedural obstacles that made it virtually impossible for the death penalty ever to be imposed by the Sanhedrin (the high Jewish court). For example, the Rabbis ruled that two witnesses were required to testify not only that

they witnessed the act for which the criminal was being condemned, but also that they had warned the perpetrator beforehand that, if he carried out the offense, he would be executed, and that he accepted this warning and nevertheless stated his willingness to carry out the act despite the knowledge that it would result in his execution.

In addition to recording these procedural safeguards, the Talmud records the opposition of some of the tradition's great sages. Under Jewish law, juvenile offenders were not considered responsible or obligated because they were held to be unable to form the necessary intent. Because a finding of intent was a necessary prerequisite of guilt (and only a guilty party could be executed), juvenile offenders could not be put to death by a Jewish court.

In addition, in Judaism the purpose of the judicial system is not merely to punish or exact revenge, but to facilitate human development and *tshuvah*. *Tshuvah*, which means "returning from bad deeds" or "repentance," is a lifelong process of psychological and religious development that plays a crucial role in the judicial system. Only though *tshuvah* can one grow into a humble and refined human being with an appreciation for the purpose of the legal system and one's personal responsibility toward others. Understanding the importance of *tshuvah* is a crucial part of human development. Hence, Judaism refuses to punish minors as adults because doing so "short-circuits" the possibility of that development.

25. Southern Christian Leadership Conference ("SCLC"). The SCLC's founding president, Dr. Martin Luther King, Jr., believed that the death penalty both violates human rights and is a symptom of violence in society which could never serve as a remedy to violence. Additionally, the SCLC has opposed the death penalty because of its discriminatory application to the

poor and people of color.

Given their lack of maturity and their exclusion from participating in most adult activities, the execution of juvenile offenders is especially unjust. Further, our Biblical tradition teaches the value of redemption and rehabilitation to which juveniles are especially responsive. The execution of juvenile offenders is inconsistent with contemporary standards of decency in the United States and should be rejected.

26. Union for Reform Judaism and the Central Conference of American Rabbis. Jewish tradition has long had reservations about capital punishment. Though the Bible mandates the death penalty for 36 offenses, it also sets strict limitations on its implementation. For example, the death penalty could only be imposed upon the evidence presented by at least two witnesses (Deuteronomy 17:6); circumstantial evidence was not permitted. Multiple witnesses had to testify to both the central criteria of premeditation and intent, thereby minimizing the possibility of false convictions.

Dating back over two thousand years, the Rabbis amplified these restrictions to effectively legislate the death penalty out of existence. They added the requirement that the witnesses warn the defendant of the punishment in advance and that the defendant verbally acknowledge their warnings. Babylonian Talmud, Sanhedrin 40b. Witnesses who testified in error were themselves liable for the death penalty. The prospect that a court could be responsible for the erroneous execution of an innocent person was so horrific that the ancient sages declared:

> The Sanhedrin (supreme court) that puts to death one person in seven years is termed tyrannical. Rabbi Eleazar ben Azariah says, One person in seventy years. Rabbi Tarfon and Rabbi Akiba say,

> If we had been in the Sanhedrin, no one would have ever been put to death. Mishnah Makkot 1:10.

The ancient wisdom of our tradition resonates within the Jewish community even today. Every major branch of Judaism has taken a position against the juvenile death penalty and all have specific policy supporting either abolition of the death penalty or a moratorium on its use.

On the basis of both Jewish teachings and modern American sensibilities, the Union of Reform Judaism and Central Conference of American Rabbis oppose the execution of juvenile offenders. Not only do we object to the juvenile death penalty for the disproportionality of this form of punishment to culpability, as held by the Missouri Supreme Court, but also, as a religious people placing a high value on redemption and rehabilitation, we reject the juvenile death penalty's destruction of any hope of either. As stated by the Union for Reform Judaism in a 1959 resolution opposing capital punishment, "We pledge ourselves to join with like-minded Americans in trying to prevent crime by removal of its causes, and to foster modern methods of rehabilitation of the wrongdoer in the spirit of the Jewish tradition of *tshuva* (repentance)."

For our youth, more than in any other segment of society, the possibility of rehabilitation and repentance must not be cast aside. Only by banning the practice of juvenile capital punishment do we leave room for redemption. Our opposition to the death penalty is a religious commitment in keeping with the highest ideals of our Jewish heritage and the American legal tradition.

27. Unitarian Universalist Association. The Unitarian Universalist Association has opposed capital punishment since its first General Assembly as a consolidated denomination in 1961. Through adopted resolutions, the Association has declared that "respect for the value of every human life must be incorporated into our laws if it is to be observed by our people" and that "modern justice should concern itself with rehabilitation, not retribution." Because the member congregations of the Unitarian Universalist Association covenant to affirm and promote the inherent worth and dignity of every person, the Association strongly opposes the execution of juvenile offenders.

28. United Church of Christ ("UCC"). UCC's Tenth General Synod (1975) approved a resolution on penal reform which called upon the Church to work for improvement of the criminal justice system. The resolution expressed UCC's belief that prisons should be primarily institutions for the training and rehabilitation of inmates. In its 22nd General Synod (1999), UCC reaffirmed its staunch position challenging the use of execution in any circumstance, as a contradiction of God's grace and sovereignty in human life, and called for a death penalty moratorium. In its 23rd General Synod (2001), UCC cited the unconscionable use of execution and life imprisonment of those who commit crimes in their youth, and resolved to advocate for "just, appropriate, and ethical methods to address juvenile crimes...." In this resolution, UCC joined the United Nations Convention on the Rights of the Child (Article 37) (1995) in calling for an end to both capital punishment and life imprisonment for offenses committed by persons under eighteen years of age.

29. United States Conference of Catholic Bishops. The Catholic Church accepts in "principle that the state has the right to take the life of a person guilty of an extremely serious crime...." U.S. Bishops' Statement on Capital Punishment ¶ 4 (Nov. 1980). But the execution of an offender, the Church

teaches, can be justified only "in cases of absolute necessity," that is, when "it would not be possible otherwise to defend society." Pope John Paul II, Evangelium Vitae (The Gospel of Life) ¶ 56. "Today ... as a result of steady improvements in the organization of the penal system, such cases are very rare if not practically non-existent." *Id.* *See also* Catechism of the Catholic Church ¶ 2267 (2d ed. 1997) ("the traditional teaching of the Church does not exclude recourse to the death penalty, if this is the only possible way of effectively defending human lives against the unjust aggressor").[8]

The execution of juvenile offenders is particularly objectionable when viewed through the lens of the Church's moral tradition. "[S]ociety must never respond to children who have committed crimes as though they are somehow equal to adults – fully formed in conscience and fully aware of their actions." Catholic Bishops of the United States, "Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice," at 28 (2000). This is true in assessing culpability and deciding on punishment, for young offenders generally do not possess the knowledge, experience, reflectiveness, self-control, and judgment that are characteristic of an adult personality. Children are not miniature adults. Their youthfulness, which should not be disregarded even when they become involved in serious crimes, has often been cited by the Bishops in their respective regions of the country as a particular

[8] This universal teaching of the Church is mirrored in the statements of the Catholic Bishops of the United States who, for more than thirty years, have "called for an end to the death penalty in our land." Statement of the Administrative Board, United States Catholic Conference, "A Good Friday Appeal to End the Death Penalty" (March 1999). The Bishops' appeal to abolish the death penalty is based on their conviction that "in the conditions of contemporary American society, the legitimate purposes of punishment do not justify the imposition of the death penalty." U.S. Bishops' Statement on Capital Punishment ¶ 9 (Nov. 1980).

reason for not imposing the death penalty in specific cases involving juvenile offenders. As noted by the Missouri Catholic Conference[9] shortly after this Court granted certiorari in the instant case, "[i]t is hard to understand that a nation that requires persons to be 18 to be declared a legal adult, to vote, serve in the military, make decisions about their own medical treatment, or even buy a pack of cigarettes can allow adolescents to be treated like adults for the purpose of the death penalty." Missouri Catholic Conference, News Release (Jan. 28, 2004).

CONCLUSION

This Court's insistence on "individualized consideration as a constitutional requirement in imposing the death sentence," *Lockett v. Ohio*, 438 U.S. 586, 605 (1978), has never prevented it from declaring that certain categories of crimes and certain classes of defendants are constitutionally beyond the reach of the death penalty. *See* note 4, *supra*. A similar exemption for juvenile offenders is warranted by virtue of the Nation's evolving standards of decency, as demonstrated by the views of these amici. All the amici agree that the death penalty – a penalty this Court has said must be reserved for the most blameworthy – should not be imposed upon juveniles.

[9] The Missouri Catholic Conference is the public policy arm of the Catholic Bishops in Missouri, each of whom is also a member of the United States Conference of Catholic Bishops.

For these reasons, and for the other reasons set forth in this Brief, we respectfully urge that the judgment below be affirmed.

Respectfully submitted,

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APPENDIX (List of Amici)

1. Alliance of Baptists ("The Alliance"). The Alliance is an ecumenically oriented association of individuals and some 120 congregations with an aggregate membership of more than 60,000 persons. Although Baptist polity does not permit any Baptist to speak for another or any association of Baptist churches to speak definitively for any of its constituent congregations, the position of the Alliance with respect to the death penalty for juveniles has been duly established within its ecclesiastical framework. Since April 28, 2000, the Alliance has been on record in opposing the death penalty generally, including the execution of juvenile offenders.

2. The American Association of Jewish Lawyers and Jurists ("AAJLJ"). The AAJLJ is a membership association of lawyers and jurists open to all members of the professions regardless of religion. It is an affiliate of the International Association of Jewish Lawyers and Jurists, which is based in Israel and was founded by the late Justice Arthur Goldberg of the United States Supreme Court and the late Justice Haim Cohen of the Supreme Court of Israel. The mission of the AAJLJ is to promote an understanding of the principles of traditional Jewish law among the bar, the judiciary and the public, including an understanding of the relevance and applicability of Jewish law to current legal issues and controversies, through participation as amici in appropriate cases, educational programs and other means of outreach. The AAJLJ also represents the interests of the Jewish community with regard to legal issues affecting the community.

The AAJLJ strongly believes that the execution of a person who was a juvenile at the time of the commission of a capital crime is contrary to the principles of Halakah (Jewish law), principles that limit the death penalty to only the very few most deserving and that preclude it in the case of a person with

limited capacity, such as a juvenile, and, as the Court has already recognized, the mentally retarded.

3. The American Friends Service Committee ("AFSC"). Since its founding in 1917 on behalf of the Meetings and members of the Religious Society of Friends (Quakers) in America, AFSC has been active in works of humanitarian relief and service, reconciliation among nations and peoples, and programs to overcome discrimination and oppression. AFSC has a vital interest in this litigation because of Friends' historic and continued opposition to the taking of human life by the State. This opposition to capital punishment is based on Friends' belief in the infinite worth of each human being and the equality of all human beings in the sight of God.

In 1976, the AFSC Board of Directors restated its opposition to the death penalty. The Board stated in part:

> It is bad enough that murder or other capital crimes are committed in the first place, and our sympathies lie most strongly with victims. But the death penalty restores no victim to life and only compounds the wrong committed in the first place. We reaffirm that there is no justification for taking the life of any man or woman for any reason.

Many members of the Religious Society of Friends are strongly opposed to the imposition of the death penalty and are unable to participate in the taking of human life because of their religious convictions. AFSC's interest in this appeal relates to Friends' historic and continued advocacy for the rights of children and adolescents, because of our recognition of their profound potential for rehabilitation, and because of our profound opposition to the taking of human life by the State.

4. The American Jewish Committee ("AJC"). AJC, a national human relations organization with over 125,000 members and supporters and 33 regional chapters, was founded in 1906 to protect the civil rights and religious liberty of Jews. It is the conviction of AJC that those rights will be secure only when the rights of all Americans are equally secure.

AJC's longstanding position that "capital punishment degrades and brutalizes the society which practices it," resulted in the agency's filing an amicus brief in the case of *Thompson v. Oklahoma* in which we argued that the imposition of the death penalty on those who have committed capital crimes while under the age of eighteen, the generally-recognized dividing line in our legal system between adult responsibilities and childhood, was contrary to evolving standards for decency and thus violative of the Eighth Amendment. We join in this brief to assert again that principle.

5. American Jewish Congress. The American Jewish Congress is an organization of American Jews founded in 1918 to protect the civil, political, religious, and economic rights of American Jews and all Americans. It has opposed the death penalty in the United States because it believes that, given the current state of the criminal justice system, it cannot be administered in ways that comply with elementary notions of justice and fairness.

6. Bruderhof Communities Church International ("The Bruderhof"). The Bruderhof is an international Christian communal movement with more than 2,500 members, founded in 1920 in Europe. The Bruderhof has existed in the United States since 1954, with current communities located in New York and Pennsylvania. Based on Jesus Christ's teachings on nonviolence, peace and justice, Bruderhof members live in complete community of goods, testifying in word and deed that

love, justice, and peace are the will of God for all mankind. Sharing common Anabaptist roots with the Hutterites, Amish and Mennonites, the Bruderhof adheres to Christian nonviolence and a belief in the sacredness and dignity of all human life. The Bruderhof has participated over many years in movements for justice and peace, among them the growing movement to abolish the death penalty. Current projects include the promotion of nonviolent conflict resolution in public schools, and witnessing to the restorative power of forgiveness and reconciliation.

7. Buddhist Peace Fellowship. Buddhist Peace Fellowship, founded in 1978, is an international Buddhist organization that serves as a catalyst for socially engaged Buddhism. Our aim is to help people liberate themselves from the suffering that manifests in individuals, relationships, institutions, and social systems through the Buddhist teachings of wisdom and compassion. Buddhist Peace Fellowship is guided by intentions to recognize the interdependence of all beings, practice nonviolence, and work with Buddhists from all traditions.

8. Church Women United. Church Women United is a national volunteer-based, Christian-based, racially, culturally and theologically inclusive movement of millions of intergenerational women throughout the United States who celebrate unity in diversity, seek interreligious cooperation, and work in numerous ways for a world of peace with justice. Church Women United began its ecumenical work 62 years ago. It has a compassionate and intense concern for the care and well being of women, children and families.

9. Community of Christ. The Community of Christ is an international Christian denomination with 250,000 members found in more than fifty nations. Its World Headquarters, including a Temple dedicated to the pursuit of peace, is located in Independence, Missouri. The church was organized in 1830 in New York State.

10. Engaged Zen Foundation. Engaged Zen Foundation is an American Zen Buddhist group originally founded as a prison outreach group. Its experience working in prisons throughout the United States over the past dozen years has compelled it to focus its efforts on the complete circle of human rights imperatives. Engaged Zen Foundation is particularly concerned about the treatment of juveniles in the criminal justice system.

11. The Evangelical Lutheran Church in America ("ELCA"). ELCA is the largest Lutheran denomination in North America and the fifth largest Protestant church body in the United States. It has approximately 11,000 member congregations, which in turn have approximately 5.1 million individual members nationwide. Through the adoption of social statements by the ELCA Churchwide Assembly, the church's highest legislative body, the ELCA adopts policy positions on issues of public importance, such as capital punishment. In 1991 the Churchwide Assembly of the ELCA adopted "A Social Statement on the Death Penalty."

12. Foundation for the Preservation of the Mahayana Tradition ("FPMT"). FPMT is an international network of Tibetan Buddhist organizations in the Gelugpa tradition. A central entity that coordinates certain activities of FPMT's many affiliates in the USA and abroad is the Foundation for the Preservation of the Mahayana Tradition, Inc., the Spiritual Director of which is Lama Thubten Zopa Rinpoche. There are at present approximately 130 centers worldwide affiliated with FPMT, 13 of which are in the USA and which include centers for Buddhist studies, retreat centers, hospices, schools, and a leprosy hospital in India. As practicing Tibetan Buddhists, we are interested in this case because, in our view, capital punishment, especially

executing a person for crimes committed as a juvenile, is cruel, unhelpful, and actually damaging to society.

13. The General Council on Finance and Administration of The United Methodist Church ("UMC"). The General Council on Finance and Administration is a national agency of UMC that supports local churches with financial and property administration issues. It is the general agency which has been given primary responsibility for legal issues affecting the denomination. UMC is a worldwide religious denomination with approximately 9 million members in the United States. Through its General Conference, UMC has declared that we "oppose capital punishment and urge its elimination from all criminal codes."

14. Greek Orthodox Archdiocese of America. The Greek Orthodox Archdiocese of America has approximately 540 parishes in the United States, with a membership of 1.5 million people. It includes nine dioceses and parishes in all 50 states. It is an eparchy of the Ecumenical Patriarchate of Constantinople, the spiritual center for 280 million Orthodox Christians worldwide.

15. The Most Reverend Frank T. Griswold, Presiding Bishop and Primate, The Episcopal Church in the United States of America. The Most Rev. Frank T. Griswold is Presiding Bishop and Primate of The Episcopal Church, USA. The Episcopal Church, USA has approximately 2.4 million members with about 7,600 congregations. Jurisdiction includes 100 dioceses in the 50 states, with several overseas dioceses in Latin America, the Caribbean, the Pacific and Taiwan. The denomination is a member province of the Anglican Communion, which has a global membership of 70,000,000.

16. Jewish Council for Public Affairs ("JCPA"). The JCPA, the coordinating body of 13 national and 122 local Jewish federations and community relations councils, was founded in 1944 to safeguard the rights of Jews throughout the world and to protect, preserve, and promote a just society. The JCPA recognizes that the Jewish community has a direct stake – along with an ethical imperative – in assuring that America remains a country wedded to the Bill of Rights. The JCPA's work reflects the profound Jewish commitment to *tikkun olam*, the repair of the world, and expresses the conviction of the organized Jewish community that it must be active in the effort to build a just society.

17. Clifton Kirkpatrick, as Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.). Clifton Kirkpatrick, as Stated Clerk of the General Assembly, is the senior continuing officer of the Presbyterian Church (U.S.A.). The Presbyterian Church (U.S.A.) is a national Christian denomination with nearly 2.5 million members in more than 11,200 congregations, organized into 173 presbyteries under the jurisdiction of 16 synods. Through its antecedent religious bodies, it has existed as an organized religious denomination within the current boundaries of the United States since 1706. This brief is consistent with the policies adopted by the General Assembly regarding capital punishment. The General Assembly does not claim to speak for all Presbyterians, nor are its decisions binding on the membership of the Presbyterian Church. The General Assembly is the highest legislative and interpretive body of the denomination. As such, its statements are considered worthy of respect and prayerful consideration of all the denomination's members.

18. Rev. Dwight M. Lundgren, Board of National Ministries, American Baptist Churches USA. The Board of National Ministries is a mission and discipleship organization of the American Baptist Churches USA ("ABCUSA"). It was founded

in 1832 as the American Baptist Home Mission Society. With its partner mission organization, the Board of International Missions, ABCUSA, National Ministries provides ministry, mission and discipleship resources for the constituent churches, regions and members of the ABCUSA.

19. The Mennonite Central Committee ("MCC"), U.S. Washington Office. The MCC U.S. Washington Office, established in 1968 as part of a faith-based international relief, development and peacemaking agency, is a Mennonite and Brethren in Christ presence on Capitol Hill providing and encouraging prophetic witness to the way of Christ on matters of U.S. public policy. The office is guided by the Biblical themes of justice for all, with special concern for poor and oppressed people (Deuteronomy 24:17-22); nonviolent peacemaking (Matthew 5:9, 38-48); dismantling racism and sexism (Gal. 3:25-28; Eph. 2:11-22); human rights, including freedom of conscience and religious practice (Prov. 31:8-9; Luke 4:18-19; Acts 5:17-42); and care for the earth (Genesis 1:28-30; Psalms 8:5-8). Mennonites have opposed the death penalty throughout their nearly 500-year history. Many MCC constituents work, individually and corporately, in the areas of mental health and restorative justice to bring about healing for victims, offenders, and community. The execution of juveniles counters our convictions and work.

20. Muslim Public Affairs Council ("MPAC"). MPAC is an organization that seeks to give the American Muslim community a voice in public policy. It was founded in 1989 in Los Angeles and currently has chapters in 12 states, with its largest presence in California and New York. MPAC has achieved the status of the leading public policy voice in the Muslim community in the United States. It has a democratic governance structure with a board elected from the membership, and an executive director who works under the supervision of the elected board. MPAC is non-partisan, and accepts donations only from U.S. citizens or U.S. permanent residents. It embraces a progressive and thoughtful interpretation of the Islamic tradition.

21. Muslim Women Lawyers for Human Rights ("Karamah"). Karamah is an educational and charitable organization committed to supporting human rights worldwide, especially the rights of Muslim women. It is our goal to empower and improve the status of Muslim and immigrant women in the United States and globally through education, leadership development, Islamic jurisprudential development, legal activism, and advocacy. We stand committed to civil rights and other related rights under the U.S. Constitution. Karamah is founded upon the idea that education, dialogue, and action can counter the dangerous and destructive effects of ignorance, silence, and prejudice.

22. National Council of Synagogues. The National Council of Synagogues is a partnership of the Conservative and Reform Jewish Movements. Comprised of the United Synagogue of Conservative Judaism, the Rabbinical Assembly, the Union for Reform Judaism, and the Central Conference of American Rabbis, it represents 3,200 rabbis and over 1,700 congregations. It is actively engaged in furthering interreligious understanding on a national level, working closely with Christian colleagues to develop interfaith dialogue curricula, study guides, films and other projects.

23. Prison Dharma Network. The Prison Dharma Network is an international interfaith contemplative support network for prisoners, prison volunteers, and correctional workers. Its mission is to provide prisoners and staff with effective contemplative tools for self-transformation.

24. Progressive Jewish Alliance ("PJA"). PJA is a national membership organization dedicated to the Jewish traditions of ensuring social and economic justice, promoting equality and diversity and pursuing peace. Under the rubric of "Tikkun Olam, Tikkun Ha Ir" ("Repair of the World, Repair of the City"), PJA works in alliance with other organizations and individuals similarly dedicated to achieving these goals in Southern California and beyond. PJA is a progressive voice in the Jewish community and a Jewish voice in the progressive community. The issues raised in this case are of profound concern to PJA, which believes that capital punishment, and in particular the execution of juvenile offenders, is antithetical to both our Jewish and American values.

25. Southern Christian Leadership Conference. The Southern Christian Leadership Conference was co-founded in 1957 by the Rev. Dr. Martin Luther King, Jr., and other civil rights pioneers, to promote human rights nationwide and abroad. The Conference is a nonprofit, non-sectarian, inter-faith advocacy organization that continues to place human rights and social justice at the forefront of America's agenda, and is committed to non-violent action to achieve social, economic, and political justice.

26. Union for Reform Judaism and the Central Conference of American Rabbis. The Union for Reform Judaism and the Central Conference of American Rabbis, the congregational and rabbinic arms of the Reform Jewish Movement, encompass 1.5 million Reform Jews in 900 congregations 'onwide and 1,800 Reform rabbis. They provide leadership and vision to Reform Jews on spiritual, ethical, and political issues, applying the insights of Jewish tradition to such domestic and foreign issues as civil and human rights, civil liberties, religious freedom, and other major societal concerns.

27. Unitarian Universalist Association. The Unitarian Universalist Association is a religious association of more than 1,000 congregations in the United States and North America. Through its democratic process, the Association adopts resolutions consistent with its fundamental principles and purposes. In particular, the Association has adopted numerous resolutions expressing its opposition to the death penalty. Most relevant to the case at bar is the Association's resolution specifically opposing the execution of minors, including those from 16 years of age. The resolution was adopted consistent with the Association's principles and purposes affirming the inherent worth and dignity of every person.

28. United Church of Christ ("UCC"). UCC was formed in 1957 as a union of traditions dating back to the Congregational Churches of the Pilgrims (1620), the Puritans of Massachusetts Bay Colony (1629), the Reformed Church in the United States (1725), emerging Christian Churches (1700s and 1800s), and the Evangelical Synod of North America (1817). Through the years, other groups have joined this union from among American Indians, Afro-Christians, Asian Americans, Pacific Islanders, Hispanic Americans, Volga Germans, and Armenians. UCC is an international Church of 1 ½ million members, noted for its diversity and guided by the motto, "That they may all be one." John 17:21.

UCC heralds as its calling the proclamation in word and action of the Gospel of Jesus Christ, and is covenanted to work for reconciliation and unity, seeking justice and liberation for all.

29. The United States Conference of Catholic Bishops ("USCCB"). The USCCB is a nonprofit corporation organized under the laws of the District of Columbia. Its members are the active Catholic Bishops of the United States. The USCCB is a

vehicle through which the Bishops speak cooperatively and collegially on matters affecting the Catholic Church, its people, and society in general. The USCCB advocates and promotes the pastoral teaching of the Church on diverse issues, including the protection of human rights and the sanctity and dignity of human life.

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